

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

MICHAEL GRIFFIS,

Petitioner,

v.

LES PARISH,

Respondent.

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Case No. 1:18-cv-149

HON. JANET T. NEFF

**OPINION AND ORDER**

This is a habeas corpus petition filed pursuant to 28 U.S.C. § 2254. The matter was referred to the Magistrate Judge, who issued a Report and Recommendation (R&R) recommending that this Court deny the petition as “meritless and/or procedurally defaulted.” The matter is presently before the Court on Petitioner’s two objections to the Report and Recommendation. In accordance with 28 U.S.C. § 636(b)(1) and FED. R. CIV. P. 72(b)(3), the Court has performed de novo consideration of those portions of the Report and Recommendation to which objections have been made. The Court denies the objections and issues this Opinion and Order. The Court will also issue a Judgment in this § 2254 proceeding. *See Gillis v. United States*, 729 F.3d 641, 643 (6th Cir. 2013) (requiring a separate judgment in habeas proceedings).

Petitioner first argues that in concluding that the state court reasonably determined that Petitioner had not clearly and unequivocally invoked the right to self-representation, the Magistrate Judge erred (Obj., ECF No. 17 at PageID.1618). The Magistrate Judge addressed Petitioner’s argument at length within the 41-page Report and Recommendation (R&R, ECF No. 16 at PageID.1583-1588). In his objection, Petitioner does not identify any factual or legal error by the

Magistrate Judge. Petitioner merely reasserts his original argument. Further, as the Magistrate Judge pointed out, even if Petitioner's initial request was unequivocal, Petitioner's subsequent request for substitution of appointed counsel "amounts to a 'waiver . . . of the right to self-representation'" (R&R, ECF No. 16 at PageID.1587-1588, citing *United States v. Jackson*, 304 F. App'x 424, 429 (6th Cir. 2008)). Petitioner's first objection is properly denied.

Second, Petitioner argues that the Magistrate Judge erred by finding "the 'prosecutor did not improperly withhold evidence about Petitioner's parole conditions'" (Obj., ECF No. 17 at PageID.1623 (quoting R&R, ECF No. 16 at PageID.1593)). However, Petitioner does not disagree with the Magistrate Judge's additional finding that Petitioner is unable to demonstrate that the alleged trial error resulted in actual prejudice that would entitle him to habeas relief. Petitioner concedes that "[t]here is no way that it can be determined as to whether or not the evidence contributed to the guilty verdict" (*id.* at PageID.1625). This objection is therefore also properly denied.

Having determined Petitioner's objections lack merit, the Court must further determine pursuant to 28 U.S.C. § 2253(c) whether to grant a certificate of appealability as to the issues raised. *See* RULES GOVERNING § 2254 CASES, Rule 11 (requiring the district court to "issue or deny a certificate of appealability when it enters a final order"). The Court must review the issues individually. *Slack v. McDaniel*, 529 U.S. 473 (2000); *Murphy v. Ohio*, 263 F.3d 466, 466-67 (6th Cir. 2001). Upon review under the applicable standards, the Magistrate Judge recommended that a certificate of appealability be denied (R&R, ECF No. 18 at PageID.1568). This Court concurs with that recommendation and concludes that reasonable jurists would not find the Court's assessment of the validity of Petitioner's issues presented debatable or wrong. A certificate of appealability will therefore be denied.

Accordingly:

**IT IS HEREBY ORDERED** that the Objections (ECF No. 17) are DENIED and the Report and Recommendation of the Magistrate Judge (ECF No. 16) is APPROVED and ADOPTED as the Opinion of the Court.

**IT IS FURTHER ORDERED** that the petition for habeas corpus relief (ECF No. 1), as amended (ECF No. 15), is DENIED for the reasons stated in the Report and Recommendation.

**IT IS FURTHER ORDERED** that a certificate of appealability pursuant to 28 U.S.C. § 2253(c) is DENIED as to each issue asserted.

Dated: April 16, 2020

/s/ Janet T. Neff  
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JANET T. NEFF  
United States District Judge